

Department of Planning & Community Development



A public hearing of the Franklin County Board of Zoning Appeals was held on March 1, 2016, in the Board of Supervisors Meeting Room located in the Franklin County Government Center.

THOSE PRESENT:

William Chase, Chairman

Alvin Peters

Billy Kingery

William D. S. Lee

Eric Ferguson

Wayne Worley

William Cooper

THOSE ABSENT:

OTHER'S PRESENT:

B. James Jefferson, County Attorney

Steve Sandy, Planning Director

Terry Harrington, Senior Planner/Current

Lori A. Crouch, Clerk

The meeting was called to order by Mr. Bill Chase, Chairman, at 6:04 p.m. A motion was made to approve the February 2, 2016, minutes as written by Mr. Billy Kingery and seconded by Mr. William Lee.

(Resolution # 16-03-01)

BE IT THEREFORE RESOLVED by the Board of Zoning Appeals to APPROVE the February 2, 2016, minutes as written.

Mr. Bill Chase, Chairman, introduced the first public hearing on the agenda, petition of TBS Construction, LLC, applicant and Mark Crush and Debbie Crush, owners, to apply for a Variance to Section 25-182(a), minimum dimensions front setback, for the purpose of the construction of an addition and deck to the existing dwelling. The minimum front setback is thirty feet (30') from the edge of right-of-way to the nearest point of the house (including porches, stoops, or any accessory buildings). The purposed setback would be twenty-five point five feet (25.5') from the closest point of the home, resulting in a variance request of four point five feet (4.5'). The property is currently zoned Agricultural District (A-1), and is located at 3525 Edwardsville Road, in the Boone District. The property is identified on Franklin County Real Estate Tax Records as Tax Map # 0170003100. Case # VAR-1-16-15125

Mr. Terrance Harrington, Senior Planner/Current, began by confirming the petition that was before the Board of Zoning Appeals for the evening; a petition by TBS Construction, LLC and Mark & Debbie Crush. The property owners wish to construction an addition to the dwelling at the rear of the home of approximately four hundred seventy (470') square feet additionally a deck of approximately two hundred (200') square feet. Mr. Harrington stated the Zoning ordinance in the A-1 district is thirty (30') feet setback from the right of way. As the house sits currently at twenty-five point five (25.5') feet from the right of way the property owners wish to have a variance of four point five (4.5') feet. Mr. Harrington stated Staff does support the granting of this variance with one condition recommended as follows:

1. Any future addition to the home or accessory structures be located at least thirty (30') feet from the Edwardsville Road right of way.

Mr. Harrington asked the Board if they had any further questions for Staff.

Mr. Billy Kingery stated that he did not see a problem with the petition, due to the widening of the road, which seems to have caused the issue of setback requirements for the homeowner.

Chairman Chase asked for clarification on the variance, asking the only reason the homeowners are asking for a variance is because the house is non-conforming at the moment and the condition was brought upon when the road was widened.

Mr. Harrington stated yes, according to the applicant there have been several improvements to the road over the last sixty (60) years or so. Each time the land was acquired.

Chairman Chase asked if there were any further questions for Staff. With no further questions for Staff, the applicant was invited to speak at this time.

Mr. Jay Gaulding, TBSCConstruction, LLC., indicated that he had nothing further to add other than the owners ask the Board of Zoning Appeals to grant their request.

Chairman Chase closed the public hearing. The members spoke among themselves. There was no objections from the members.

Mr. William Lee made a motion to grant the appeal based on the fact the applicant has demonstrated the variance criteria identified in Section 15.2-2309 of the Code of Virginia has been met, I move to grant a variance to Section 25-182(a) establishing a new minimum front yard setback of 25.5 feet on tax parcel # 0170003100 with following condition:

1. Any future addition to the home or accessory structures be located at least thirty (30) feet from the Edwardsville Road right of way.

The motion was seconded by Mr. Billy Kingery.

(Resolution # 16-03-02)

BE IT THEREFORE RESOLVED by the Board of Zoning Appeals to APPROVE the variance requested with the following condition(s): (1) Any future addition to the home or accessory structures be located at least thirty (30) feet from the Edwardsville Road right of way.

Motion: Lee
Seconded: Kingery

Voting on the motion was as follows:

Ayes: Chase, Kingery, Peters, Lee, Cooper, Worley
Nays:
Absent:
Abstain: Ferguson

Mr. Bill Chase, Chairman, introduced the next petition as, petition of Kenneth Bousman, James Bousman and Bonnie Turner-Bousman, Applicant/Owners, to appeal the Zoning Administrator's determination of December 15, 2015, relating to the use of the property as an automobile graveyard including salvage, rebuilding, demolishing as well as sale service and/or vehicle repair. In addition, the determination states that the non-conforming use of the property was abandoned when a special use permit was issued on October 24, 2006. The property is currently zoned Agricultural (A-1) and is located at 2871 Byrds Mill Road in the Union Hall District. The property is identified on Franklin County Real Estate Tax Records as Tax Map # 0650009500. Case # APRQ-1-16-15100

Mr. Steven Sandy, Director of Planning & Community Development, began by giving some information and history of the property at 2871 Byrds Mill Road in Union Hall. Mr. Sandy stated the Board of Supervisors heard the petition for the Special Use Permit (SUP) in 2006 and tabled it at the first public hearing but at the later public hearing the Board approved the SUP with conditions. The property is zoned A-1. The applicant states there has been storage on this property since the 1970's with approximately 60 vehicles. Salvage was started in the mid 1980's. Salvage has continued through this hearing. In 2006 the SUP was issued to legalize an auto grave yard. The SUP went through the process to the Planning Commission and then to the Board of Supervisors. Conditions were imposed at the October, 2006, public hearing.

The Department of Motor Vehicles (DMV) requires a signature for scrape or salvage yard from local county offices. Mr. Bousman brought the form to the County offices for a signature. After having done some research into this request, Mr. Sandy determined as the Zoning Administrator that he could not sign off on the form from the DMV due to Condition #5 of the SUP that is currently active. The applicant believed the property to be of non-conforming use since 1980's. However, when the SUP went into effect in 2006, the non-conforming status was abandoned according to §25-161(d), limiting the uses from 1980's. It is the Zoning Administrator's determination that Salvage and Demolition are a use for the Industrial District (M-2), and should return to the Board of Supervisors to be rezoned as Industrial.

Mr. Sandy asked the Board if they had any questions at this time.

Mr. Bill Chase asked if the applicant had been doing salvage since the 1980's? Mr. Sandy stated that according to the applicant the family has in this business as an auto graveyard since the 1970's. The applicant's father started the collection and it has grown over time to nearly 200 vehicles.

Mr. Chase asked if the salvage and auto graveyard would be grand-fathered? Mr. Sandy stated that according to his determination the property was non-conforming until the request and granting of the SUP in 2006.

Mr. Chase asked why the applicant got a SUP in the first place? Mr. Sandy was unsure of the answer and Mrs. Turner was asked to clarify the answer. Mrs. Turner stated the only option they felt they had in 2006 would be an SUP. Mrs. Turner said that in 2006 the zoning ordinance stated that for five (5) or more vehicles would affect them. They approached the Planning Department to discuss the issue of the auto graveyard and salvage at that time the only option they were given was for an SUP. Mrs. Turner stated it would have been great if they had been able to grandfather this use. Father had started the auto graveyard possibly before the 1970's and that

her brother, Kenneth, expanded it, with that expansion the ordinance in 2005 was the reason they came to the Planning Department asking what they needed to do to be in compliance. At that time they were told they would have to have an SUP.

Mr. Chase and Mr. Sandy thanked Mrs. Turner for the clarification. Mr. Sandy stated he was under the impression that they came as a resolute of a violation.

Mr. Chase stated that the applicant was not in violation of the ordinance at that point. Mr. Sandy stated that up to that point, they were considered a non-conforming use based on the information he was able to glean. Mr. Chase asked if had they done nothing, they would be able to operate, except for the DMV licensing. Mr. Sandy agreed with Mr. Chase stating that possibly if the applicant had stayed as a non-conforming use, they may be in a better situation currently. But since they did get an SUP the Board of Supervisors put conditions in place that stated, no salvage, no demolishing and no rebuilding.

Mr. Chase asked if the applicants collect the vehicles and can't demolish them or salvage them why would they collect them? Mr. Sandy stated that was also a question that came to his mind of what can the applicant really do and I came to the conclusion that the only things they can do is storage of and crushing vehicles under the current conditions.

Mr. Chase stated that it not what the applicant has been doing all these many years. Mr. Sandy stated that one of the things that came up in the Planning Commission and Board hearings of some discussion that in fifteen (15) years all the vehicles should be gone. Mr. Sandy suggested that maybe the applicant was working on the removal of all the vehicles over time. So at some point the operation would stop.

Mr. William Cooper asked if there was anything official regarding the fifteen (15) years? Mr. Sandy stated that is correct, there is nothing official. Mrs. Turner clarified that Mr. Camicia had made a motion that the fifteen (15) years be put into place. The motion died for a lack of a second therefore there was no action taken on that motion.

Mrs. Turner stated for the Board that the auto graveyard is not a pretty thing, but that this graveyard when vehicles come in fluids are removed, and mercury switches are removed before being stored. The vehicles are not visible to Route 40 or Byrds Mill Road. They are in compliance with the Department of Environmental Quality (DEQ) and with wastewater management program. They have close contact with DEQ, there are site inspections and have had no violations.

Mr. Sandy asked Mrs. Turner to speak about the DMV and there involved. Mrs. Turner stated that they did not have a license prior to 2006, at that time, Mr. Bousman became licensed as a demolisher through the DMV. The DMV required a signature from the Planning Department and the signature was giving. Every year it has been given to the Planning Department for a signature and it has been given. Mr. Sandy stated the Board should have copies of these requests in their packet.

Mrs. Turner stated our problem is what do we do with all these vehicles. Mr. Jefferson stated he thought he remembered for the public hearings that the vehicles were to be sold. Mrs. Turner stated that their hope was to empty the auto graveyard in Mr. Bousman's time. There are approximately sixty (60) vehicles remaining. Ten (10) years ago a vehicle could be taken to the

crusher and make \$10/100lbs, today you make \$3/100lbs. They can salvage a bumper or door from the same vehicle for a great income than they can for the entire vehicle.

Mr. Ferguson asked the applicant if they had read the condition #5 of their SUP? Mrs. Turner stated that they were aware of the condition. Mr. Ferguson asked if they had been salvaging since 2006? Mrs. Turner stated that they had been with the blessing of the DMV. Mrs. Turner continued that their goal was to clean the farm and make some money.

Mr. Cooper asked if the applicant could appeal to the Board of Supervisors? Mr. Jefferson stated they would have to go before the circuit court.

Mr. Ferguson asked if the Board of Supervisors could amend the conditions of the existing SUP? Mr. Jefferson stated that they could not change them.

Mr. Cooper asked if the applicant had any other options? Mr. Sandy stated the applicant could go through the process of rezoning to an Industrial District, M-2 or follow the SUP's conditions.

Mr. Chased asked if the Board upheld the Zoning Administrators determination could the applicant have the option of rezoning seven (7) acres as Industrial District, M-2 with a SUP. How involved would that be? Mr. Sandy stated that staff would not recommend the rezoning of seven (7) acres to an Industrial District, M-2.

Mrs. Turner quoted the zoning district for the Industrial District, M-2. She feels that this is not a good representation of the area but that the Agricultural District, A-1 with a SUP would be the best solution; the problem is the demolishing.

Mr. Ferguson stated indeed the salvage is the problem. But that it fits under the "Sales, Service and Repair" in the M-1 and M-2 Districts. Mr. Ferguson commented that the applicant is asking the Board to allow a County Ordinance to protect economic benefits. He suggested that the applicant go back before the board.

Mr. Cooper agreed that it is very clear. The applicant would need to return to the Board of Supervisors for an SUP

Mr. Eric Ferguson made a motion to affirm the Zoning Administrator's decision dated December 15, 2015, concerning the allowable uses of the property owned by Kenneth Bousman. Further recommending Mr. Bousman go to the Board of Supervisors to ask for a removal of or an amendment of the current conditions. The motion was seconded by Mr. Bill Cooper.

(Resolution # 16-03-03)

BE IT THEREFORE RESOLVED by the Board of Zoning Appeals to DENY the appeal with the following recommendation(s): (1) The Applicant should return before the Board of Supervisors to ask for the removal of or an amendment to the current Special Use Permit (2006).

Motion: Ferguson
Seconded: Cooper

Voting on the motion was as follows:

Ayes: Chase, Ferguson, Peters, Lee, Cooper, Worley

Nayes:
Absent:
Abstain: Kingery

With no further business or discussions. Mr. Bill Chase adjourned.

Respectfully,

Lori A Grouch
Clerk

March 21, 2016
Date